

STATEMENT IN OPPOSITION TO SB 317 ON BEHALF OF  
REYNOLDS AMERICAN

My name is Jerome Anderson. I am an attorney in Helena with the firm of Anderson, Baker and Swanson. I represent Reynolds American, the successor to R. J. Reynolds Tobacco Company. This statement is offered by Reynolds American in opposition to SB 317.

The federal government has increased taxes on all tobacco products effective April 1, 2009 to pay for an increase in the SCHIP Program. These increases vary from an increase of 158% on moist snuff from \$58.5/lb. to \$1.51/lb. to an increase of 2159% on the federal tax on roll your own tobacco from \$1.0969/lb. to \$24.78/lb. The cowboys won't be happy with that. Attached hereto and marked Exhibit A is a compilation of the federal tax increases. Adding the tax increases contemplated in SB 317 would in total be confiscatory. The effect of the proposed Montana increase would put Montana's tax at the highest level in comparison to the surrounding states. This disparity creates a number of problems not the least of which is the opportunity for sales in Montana of product not taxed in Montana. It also drives purchases to out of state sources which is counterproductive to Montana's interests.

In addition the Congressional Budget Office in looking at price elasticity on tobacco products estimates that for each 10 percent increase in price consumption of product and taxed sales drop by 4%. Wrapping that estimate (which is referred to on P. 3 note 3 of the fiscal note) around the tax increases should cause some alarm to those agencies that benefit from tobacco taxes such as the Department of Public Health and Human Services as well as those that benefit from general fund revenues. As consumption goes down, so do taxed sales.

If additional funding must be raised there is a new source from tobacco proceeds. This is the Strategic Contribution Fund into which the tobacco companies will pay annually \$861,000,000. Money from this fund will be allocated to states based upon a formula developed by the Attorneys General. The allocation formula will reflect the contribution made by states toward resolution of the state lawsuits against tobacco companies. We understand that Montana has already received its first annual payment of approximately \$8,995,000 in 2008. A payment is due in 2009 and every year thereafter until 2017. The amount of such payment should be fairly level. We suggest that proponents of SB 317 could look to this source for funding.

Attached hereto and marked Exhibit B is a listing of payments made by tobacco companies to the states under the Master Settlement Agreement. This is in addition to tax payments and includes Montana. It covers the period 2000 through 2007. It shows payments made to Montana. The tobacco companies have certainly anted up their fair share.

We urge a no vote on SB 317.

Respectfully submitted,

Jerome Anderson  
Representing Reynolds American

EXHIBIT A

SCHIP Cigarette and Tobacco Tax Rates - 2009

Product	Current Rates March 31, 2009	Through	Cigarette and Tobacco Tax Rates on April 1, 2009	Percentage of Increase
Cigarettes	39¢ per pack		\$1.0066 per pack	158%
Large Cigars	20.719% of manufacturer's price; cap of 4.875¢/cigar		52.75% of manufacturer's price; cap of 40.26 cents per cigar	154%
Little Cigars	4¢ per pack		\$1.0066 per pack	2416.5%
Pipe Tobacco	\$1.0969 per pound		\$2.8311 per pound	158%
Chewing Tobacco	19.5¢ per pound		50.33¢ per pound	159%
Snuff	58.5¢ per pound		\$1.51 per pound	158%
RYO; Cigar Wrappers	\$1.0969 per pound		\$24.78 per pound	2159%
Cigarette Paper	1.22¢ per 50 papers		3.15¢ per 50 papers	158%
Cigarette Tubes	2.44¢ per 50 tubes		6.30¢ per 50 tubes	158%

## EXHIBIT B

**Table 19**  
**Settlement Payments (Received) by State**  
 (During Fiscal Years Ending June 30)

State	2000	2001	2002	2003
AL	\$ 131,736,409	\$ 96,961,493	\$ 118,630,006	\$ 109,218,715
AK	27,942,084	21,178,139	24,251,255	23,073,194
AZ	120,317,729	87,669,615	107,032,929	99,605,678
AR	69,407,000	51,364,510	58,818,734	55,960,989
CA	1,031,054,950	759,225,833	926,913,190	862,592,806
CO	112,192,822	85,026,250	97,374,439	92,643,323
CT	149,965,089	110,430,429	134,820,753	125,465,456
DE	31,844,739	23,523,288	28,718,767	26,725,971
DC	34,746,753	37,997,538	44,556,260	44,285,021
FL	674,400,000	731,300,000	591,300,000	546,500,000
GA	200,875,545	152,235,170	174,343,618	165,873,123
HI	48,816,707	35,800,091	43,707,219	40,874,230
ID	29,729,862	22,531,022	25,803,019	24,549,477
IL	360,980,784	288,674,835	330,597,675	314,636,767
IN	166,939,733	106,515,675	144,889,950	137,850,671
IA	71,174,516	53,940,181	61,773,891	58,772,398
KS	68,339,678	51,707,586	59,216,781	56,339,811
KY	142,280,704	104,957,133	127,894,429	119,019,735
LA	184,580,816	139,997,812	160,200,960	152,417,604
ME	62,964,502	47,268,164	54,647,978	51,992,991
MD	184,998,320	140,202,664	160,613,718	152,762,495
MA	326,255,685	240,246,288	293,308,837	272,955,673
MI	351,536,279	258,862,265	316,036,565	294,106,198
MN	785,511,000	336,997,000	368,600,000	152,905,300
MS	479,380,776	211,149,286	209,029,285	149,605,074
MO	190,657,000	142,110,326	161,568,359	153,718,381
MT	34,762,750	26,248,117	30,171,242	28,705,371
NE	48,694,095	36,903,219	42,262,298	40,209,207
NV	49,917,764	37,830,589	43,324,589	41,219,611
NH	64,600,780	43,303,662	47,302,022	45,004,085
NJ	317,900,000	239,846,695	274,678,162	261,333,005
NM	48,809,193	36,989,850	42,362,485	40,304,233
NY	1,030,897,883	754,339,700	926,773,228	882,482,784
NC	188,394,370	142,728,818	169,369,780	157,816,647
ND	29,954,971	22,701,724	25,998,862	24,735,367
OH	412,275,427	312,446,299	357,821,523	340,436,808
OK	84,798,608	64,265,818	73,598,339	70,022,502
OR	92,704,121	68,264,932	83,342,506	77,559,161
PA	322,321,007	341,834,897	417,334,739	388,374,868
RI	58,835,017	44,589,359	51,066,062	48,583,865
SC	96,275,037	72,981,122	83,557,847	79,498,302
SD	28,558,111	21,642,999	24,788,182	23,581,862
TN	202,952,503	151,394,114	173,380,106	164,956,568
TX	2,236,754,636	974,220,834	1,002,820,911	499,993,000
UT	36,410,034	27,593,646	31,600,739	30,065,603
VT	33,214,200	24,458,081	29,860,051	27,788,013
VA	167,348,039	126,823,184	145,241,224	138,184,596
WA	168,040,940	127,351,202	145,845,703	138,759,931
WV	72,548,901	54,981,783	62,966,617	59,907,320
WI	167,372,619	123,248,769	150,470,470	140,029,148
WY	20,060,495	14,772,038	18,034,918	16,783,285
Total	\$12,062,809,783	\$8,229,612,044	\$9,278,619,002	\$8,030,266,192

These figures represent payments made by cigarette manufacturers to forty-six states and the District of Columbia under the Master Settlement Agreement. Florida, Mississippi, Minnesota, and Texas settled separately with the states. The source for this data for all states is the National Conference of State Legislators, "State Management and Allocation of Tobacco Settlement Revenue-2003." D.C. data estimated from industry sources. 2004 and 2005 data come from Campaign For Tobacco-Free Kids, "Actual Payments Received by the States from the Tobacco Settlements," May 4, 2005. NCSL data was not available at the time of printing. The payments listed above do not include special grower payments (Phase II) received by Alabama, Georgia, Florida, Kentucky, Indiana, Maryland, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. Other settlement funds, such as pilot grants and similar funds, may not be included as well.

The states and D.C. also received initial and other payments starting in 1997 through 1999. 2000 marks the start of annual payment for the 46 MSA states.

**Table 19**  
**Settlement Payments (Received) by State**  
**(During Fiscal Years Ending June 30)**

State	2004	2005	2006	2007
AL	\$ 101,900,000	\$ 103,000,000	\$ 94,300,000	\$ 97,300,000
AK	21,500,000	21,800,000	19,900,000	20,800,000
AZ	92,700,000	94,000,000	86,000,000	88,800,000
AR	52,100,000	52,800,000	48,300,000	49,900,000
CA	802,400,000	813,700,000	744,500,000	768,800,000
CO	86,200,000	87,400,000	80,000,000	82,600,000
CT	116,700,000	118,400,000	108,300,000	111,800,000
DE	24,900,000	25,200,000	23,100,000	23,800,000
DC	38,200,000	38,700,000	35,400,000	36,600,000
FL	363,900,000	416,700,000	389,700,000	399,000,000
GA	154,300,000	156,500,000	143,200,000	147,800,000
HI	37,800,000	38,400,000	36,100,000	36,200,000
ID	22,800,000	23,200,000	21,200,000	21,900,000
IL	282,600,000	296,700,000	271,500,000	280,300,000
IN	128,200,000	130,000,000	119,000,000	122,900,000
IA	54,700,000	55,400,000	50,700,000	52,400,000
KS	52,400,000	53,100,000	48,600,000	50,200,000
KY	110,700,000	112,300,000	102,700,000	106,100,000
LA	141,800,000	143,800,000	131,500,000	135,800,000
ME	48,400,000	49,000,000	44,900,000	46,300,000
MD	142,100,000	144,100,000	131,800,000	136,100,000
MA	253,900,000	257,500,000	236,600,000	243,300,000
MI	273,600,000	277,400,000	253,800,000	262,100,000
MN	168,500,000	175,500,000	180,800,000	188,000,000
MS	112,500,000	116,900,000	120,500,000	123,000,000
MO	143,000,000	145,000,000	132,700,000	137,000,000
MT	26,700,000	27,100,000	24,700,000	25,600,000
NE	37,400,000	37,900,000	34,700,000	36,800,000
NV	38,300,000	38,900,000	35,600,000	36,700,000
NH	41,900,000	42,500,000	38,800,000	40,100,000
NJ	243,100,000	246,500,000	225,500,000	232,900,000
NM	37,500,000	38,000,000	34,800,000	35,900,000
NY	802,300,000	813,600,000	744,400,000	768,600,000
NC	146,600,000	148,700,000	136,000,000	140,500,000
ND	23,000,000	23,300,000	21,300,000	22,000,000
OH	316,700,000	321,100,000	293,800,000	303,400,000
OK	65,100,000	66,100,000	60,400,000	62,400,000
OR	72,100,000	73,200,000	66,900,000	69,100,000
PA	361,300,000	366,400,000	335,200,000	346,100,000
RI	45,200,000	45,800,000	41,900,000	43,300,000
SC	73,900,000	76,000,000	68,600,000	70,800,000
SD	21,900,000	22,200,000	20,400,000	21,000,000
TN	153,400,000	155,600,000	142,400,000	147,000,000
TX	479,900,000	498,600,000	514,300,000	511,000,000
UT	28,000,000	28,400,000	25,900,000	26,800,000
VT	26,800,000	26,200,000	24,000,000	24,800,000
VA	128,500,000	130,400,000	119,300,000	123,200,000
WA	129,100,000	130,900,000	119,800,000	123,700,000
WV	55,700,000	56,500,000	51,700,000	53,400,000
WI	130,300,000	132,100,000	120,900,000	124,800,000
WY	15,600,000	15,800,000	14,500,000	15,000,000
<b>Total</b>	<b>\$7,337,100,000</b>	<b>\$7,508,300,000</b>	<b>\$6,968,900,000</b>	<b>\$7,172,500,000</b>

These figures represent payments made by cigarette manufacturers to forty-six states and the District of Columbia under the Master Settlement Agreement. Florida, Mississippi, Minnesota, and Texas settled separately with the states. D.C. data estimated from industry sources. 2004-2007 data come from Campaign For Tobacco-Free Kids, "Actual Payments Received by the States from the Tobacco Settlements," September 5, 2007.

The payments listed above do not include special grower payments (Phase II) received by Alabama, Georgia, Florida, Kentucky, Indiana, Maryland, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. Other settlement funds, such as pilot grants and similar funds, may not be included as well.